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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,237	05/17/1999	HARTMUT EICHINGER		9458

7590 08/11/2004

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EXAMINER
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THISSELL, JENNIFER I

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/297,237

Applicant(s)

EICHINGER, HARTMUT

Examiner

Jennifer I Thissell

Art Unit

3635

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one additional self-supporting slab resting in a horizontal direction (claim 33), and the at least one additional self-supporting slab placed substantially adjacent said supporting slab (claim 34) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 21, 26, 28, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Walmer ('960). Walmer teaches a playhouse with supporting posts having limit stops that are formed as vertical plate-like bodies 40,50 with horizontal slits 407, a roof 30 affixed to the supporting posts, the roof is a self-supporting slab resting in a horizontal direction directly upon and positioned in the horizontal slits of the supporting posts with the supporting posts vertically extending beyond the self-supporting slab, and with the self-supporting slab and supporting posts being stably connected without permanent fixation means. The supporting slab comprises a cover plate, which rests upon a level framework in a parallel direction. The support posts have a length exceeding the distance from the roof to the floor, and the slab is capable of being inserted edgewise into the recess or slit. The slab includes a fastening device 307,91 on its edge, the parts of the playhouse are connected to one

another via plug connections 91, and screws are the permanent fixation means that are not used to connect the elements of the playhouse.

Claims 20-22, 24, 25, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaughlin ('418). McLaughlin teaches a playhouse having supporting posts with locking elements being formed as vertical plate-like bodies 17 with horizontal slits 45 that are considered so because they are slits in the bodies and they extend in a horizontal direction. There is also a roof 25 affixed to the posts, the roof is a self-supporting slab that rests in a horizontal direction (Figure 3), and is positioned in the horizontal slits of the supporting posts (as demonstrated in Figure 20 at 49). The supporting posts vertically extend beyond the slab (as seen as the uppermost element 17 in Figure 2, which could be utilized on a flat roof structure as in Figure 3), and the posts are stably connected without permanent fixation means. Figure 1 shows a configuration of a hexagonal playhouse, however, because it states that the elements could also be fastened at any angle from 0 degrees to almost 180 degrees, a half-hexagon could also be created. The cross-section of the posts are considered to have a horizontal cross-section that is curved since the edges can be seen as being curved. The supporting posts have recesses, and it can be seen in Figure 2 that a plurality of levels can be created, since there is a level midway up the structure. The locking elements of the supporting posts comprise a lockable extension 49 provided with a hook that is pushable

through an aperture is a support for each locking element, the cross-section of the aperture being diminished by the locking element so that the hook cannot be pulled outwardly from the aperture.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin ('418). McLaughlin teaches a structure as stated above, but does not specifically state that a half-hexagon could be created. McLaughlin does state that the elements could also be fastened at any angle from 0 degrees to almost 180 degrees. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a half-hexagon. It would be a matter of design choice to create various shapes, and because the elements could be fastened between the stated angles, this shape could be created. A half-hexagon, versus a hexagon, could be placed near a flat wall surface without taking up as much space.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walmer ('960). Walmer teaches a structure as stated above, but does not show an additional self-supporting slab to create an additional level, nor does it show an additional self-supporting slab placed substantially adjacent the said self-supporting slab. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add an additional level or self-supporting slab to the playhouse, since mere duplication of an element is considered routine in the art. An additional slab would provide more square footage in a playhouse, which would therefore increase the overall play space for a child. It would have also been obvious to one having ordinary skill in the art at the time the invention was made to have an adjacent self-supporting slab adjacent the first self-supporting slab, as the roof 30 could be assembled in two pieces, since making two elements out of one element would be considered routine in the art. Having the roof 30 split in two pieces, and therefore having one self-supporting slab adjacent to the other, would allow for increased flexibility of assembly.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walmer ('960) in view of Kakuk ('924). Walmer teaches a structure as stated above, but doesn't state that the vertical bodies are comprised of straw with a binding agent. Walmer teaches that lightweight building components are known to be made of straw with a binding agent (column 4, lines 7-10).

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Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have prefabricated parts that are made from straw and a binding agent. Lightweight components would be ideal for a playhouse, as it would be easy for a parent to put together.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walmer ('960) in view of Katz ('818). Walmer teaches a structure as stated above, but does not show a guide or side rail on the top side or base of the slab. Katz is cited to show that railings or guide rails are well known and utilized in the art near stairs, balconies, and the like (column 1, lines 7-12) in order to provide a safe structure. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a guide rail or railing near the opening at 305 in Walmer since it is near an opening in the floor to a lower level. And although Walmer provides a playhouse, providing a guide rail would create as realistic a recreation of a large house as possible.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached on Mondays and Tuesdays.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JIT

Carl D. Friedman  
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Group 3600